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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,030	07/21/2003	Scott A. Melton	2206.68155	5108
24978	7590	05/14/2004		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER FIGUEROA, FELIX O	
			ART UNIT 2833	PAPER NUMBER

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/624,030	MELTON ET AL.
	Examiner	Art Unit
	Felix O. Figueroa	2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on 22 March 2004.
- 2a)  This action is FINAL. 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-4 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-4 and 6-21 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Objections***

Claims 1, 2, 6 and 21 are objected to because of the following informalities:

Claim 1 recites "first and second enclosure portions" and "member". However, it appears that both the limitations refer to the same part of the invention. See also claims 2 and 6.

In claim 2, it is unclear to which enclosure is being referred to by "said enclosure".

In claim 21 lines 10-11, it appears that "said enclosure is configured to taper on side portions towards said cord tethering portion to conform to the overall shape of the plug" should be deleted since lines 15-16 appear to recite the same language.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15, 16 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites " a squeeze force sufficient to prevent children from disengaging said male connection from said female formation". However, it is noted that the amount of force required by the claim cannot be defined since the parameters limiting the force

(i.e. to prevent children) encompasses an indefinite range for the force required. See also claims 16 and 21.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-16 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweatman et al. (US 5,755,588).

Sweatman discloses an electrical plug protector for use on an electrical plug (not shown) with a cord (30), comprising: first and second enclosure portions (10,15) with members moveable between an open position (Fig.2) and a closed position (Fig.3); and a cord tethering portion (70) for detachably engaging the cord, associated with the enclosure portion for substantially encircling the cord; and when in the closed position, the enclosure portion is configured to be openable without the use of tools.

Regarding claim 2, Sweatman discloses the enclosure (5) including at least two of the members:

Regarding claim 3, Sweatman discloses the open position being configured to make the plug accessible.

Regarding claim 4, Sweatman discloses the cord-tethering portion being provided with a clasp (60) configured for detachably engaging the cord.

Regarding claim 6, Sweatman discloses the members being latchable to each other.

Regarding claim 7, Sweatman discloses the electrical plug protector including a top portion, side portions, and a base.

Regarding claim 8, Sweatman discloses the enclosure being configured to taper on the side portions towards the cord-tethering portion to conform to an overall shape of the plug.

Regarding claim 9, Sweatman discloses the tethering portion being configured to attach to the cord independent of the side portions being in the open or the closed position.

Regarding claim 10, Sweatman discloses at least one member has a solid outer wall.

Regarding claim 11, Sweatman discloses at least one latch (20) forming a male connection piece on one of the members and configured to be latchable to a corresponding female formation (45) located on a second of the members.

Regarding claim 12, Sweatman discloses the members being connected to each other by at least one hinge (35).

Regarding claim 13, Sweatman discloses the at least one hinge being located at the base of the plug protector.

Regarding claim 14, Sweatman discloses the at least one hinge is located at one of the side portions of the plug protector.

Regarding claims 15 and 16, Sweatman discloses the male connection piece requiring a squeeze force to disengage the male connection from the female formation.

Regarding claim 18, Sweatman discloses an electrical plug protector for use on an electrical plug (not shown) with a cord (30), comprising: an enclosure portion including at least two members (10,15) each defined by a top portion, side portions, and a base, said members moveable between an open position and a closed position, a cord tethering portion (60) for detachably engaging the cord associated with the enclosure portion; and the enclosure portion being configured to taper on the side portions towards the cord tethering portion to substantially conform to the overall shape of the plug thereby containing only one plug; a hinge mechanism (35) connecting the members to each others; and when in the closed position, the enclosure portion is configured to be openable without the use of tools.

Regarding claim 19, Sweatman discloses the hinge mechanism is located on said base of said plug protector.

Regarding claim 20, Sweatman discloses the hinge mechanism is located on one of said side portions of the plug protector.

Regarding claim 21, Sweatman discloses an electrical plug protector for use on an electrical plug (not shown) with a cord (30), comprising: an enclosure portion with members (10,15) moveable between an open position and a closed position; the enclosure portion including at least two members each defined by a top portion, side

portions, and a base; the members being latchable to each other; the members when in the closed position require a sufficient squeeze force to prevent actuation; a cord tethering portion (60) for detachably engaging the cord associated with the enclosure portion; and the enclosure portion being configured to taper on the side portions towards the cord tethering portion to substantially conform to the overall shape of the plug thereby containing only one plug; said enclosure portion substantially restricts axial, lateral and horizontal movement of the cord and plug; a clasp (tips of 60) located at the tethering portion for detachably engaging the cord; and wherein said closed position, said enclosure portion is configured to be openable without the use of tools.

Claims 1-4 and 6-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Francis (US 5,342,212).

Francis discloses an electrical plug protector (10) for use on an electrical plug (14) with a cord, comprising: first and second enclosure portions (12,30) with members moveable between an open position (Fig.4) and a closed position (Fig.5); and a cord tethering portion (18) for detachably engaging the cord, associated with the enclosure portion for substantially encircling the cord; and when in the closed position, the enclosure portion is configured to be openable without the use of tools.

Regarding claim 2, Francis discloses the enclosure (12) including at least two of the members.

Regarding claim 3, Francis discloses the open position being configured to make the plug accessible.

Regarding claim 4, Francis discloses the cord-tethering portion being provided with a clasp (at 18) configured for detachably engaging the cord.

Regarding claim 6, Francis discloses the members being latchable to each other.

Regarding claim 7, Francis discloses the electrical plug protector including a top portion, side portions, and a base.

Regarding claim 8, Francis discloses the enclosure being configured to taper on the side portions towards the cord-tethering portion to conform to an overall shape of the plug.

Regarding claim 9, Francis discloses the tethering portion being configured to attach to the cord independent of the side portions being in the open or the closed position.

Regarding claim 10, Francis discloses at least one member has a solid outer wall.

Regarding claim 11, Francis discloses at least one latch (38) forming a male connection piece on one of the members and configured to be latchable to a corresponding female formation (not labeled) located on a second of the members.

Regarding claim 12, Francis discloses the members being connected to each other by at least one hinge (36).

Regarding claim 13, Francis discloses the at least one hinge being located at the base of the plug protector.

Regarding claim 14, Francis discloses the at least one hinge is located at one of the side portions of the plug protector.

Regarding claims 15 and 16, Francis discloses the male connection piece requiring a squeeze force to disengage the male connection from the female formation.

Regarding claim 17, Francis discloses the cord-tethering portion including at least one securing member (at 24) hingedly connected (by 40) to a fixed member.

Regarding claim 18, Francis discloses an electrical plug protector (10) for use on an electrical plug (14) with a cord, comprising: an enclosure portion including at least two members (12,30) each defined by a top portion, side portions, and a base, said members moveable between an open position and a closed position, a cord tethering portion (18) for detachably engaging the cord associated with the enclosure portion; and the enclosure portion being configured to taper on the side portions towards the cord tethering portion to substantially conform to the overall shape of the plug thereby containing only one plug; a hinge mechanism (36) connecting the members to each others; and when in the closed position, the enclosure portion is configured to be openable without the use of tools.

Regarding claim 19, Francis discloses the hinge mechanism is located on said base of said plug protector.

Regarding claim 20, Francis discloses the hinge mechanism is located on one of said side portions of the plug protector.

Regarding claim 21, Francis discloses an electrical plug protector for use on an electrical plug (14) with a cord, comprising: an enclosure portion with members (12,30) moveable between an open position and a closed position; the enclosure portion including at least two members each defined by a top portion, side portions, and a base;

the members being latchable to each other; the members when in the closed position require a sufficient squeeze force to prevent actuation; a cord tethering portion (18) for detachably engaging the cord associated with the enclosure portion; and the enclosure portion being configured to taper on the side portions towards the cord tethering portion to substantially conform to the overall shape of the plug thereby containing only one plug; said enclosure portion substantially restricts axial, lateral and horizontal movement of the cord and plug; a clasp (at 18,24) located at the tethering portion for detachably engaging the cord; and wherein said closed position, said enclosure portion is configured to be openable without the use of tools.

***Response to Arguments***

Applicant's arguments filed March 22, 2004 (regarding Sweatman) have been fully considered but they are not persuasive.

In response to Applicant's arguments that Sweatman does not disclose "any structure configured to securely retain the plug protector on the plug in the open position", please note Figure 2 of Sweatman which shows the cable (30) of the plug being securely retained by the tethering portion (60).

In response to Applicant's arguments (regarding claims 18 and 21) that "said enclosure portion is configured to taper on said side portions towards said cord tethering portion to containing only substantially conform to the overall shape of the plug thereby containing only one plug", it is noted that the plug protector of Sweatman can accommodate a plug and a socket, but cannot accommodate two plugs. Since the

protector of Sweatman accommodates only a single plug, then it meets the recited claim language.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix O. Figueroa whose telephone number is (571) 272-2003. The examiner can normally be reached on Mon.-Fri., 10:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on (571) 272-2800 Ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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